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OFFICE OF PETITIONS

In re Application of :
Claire B. Bass :
Application Number: 10/806082 : DECISION ON PETITION
Filing Date: 03/22/2004 :
Attorney Docket Number: SCF-87 :

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.183," filed on July 16, 2009, which is treated as (1) a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by the sole inventor,¹ and (2) a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.183 is dismissed as moot.

The petition to withdraw the holding of abandonment is granted.

This application was filed on March 22, 2004. On July 29, 2004, a declaration under 37 CFR 1.63 was filed, naming Claire B. Bass as the sole inventor.

On December 12, 2007, a final Office action was mailed, setting a three (3) month period for reply.

On April 14, 2008, a Request for Continued Examination (RCE), submission under 37 CFR 1.114, a petition for a one (1) month extension of time, and a petition styled under 37 CFR 1.47(a), and declaration under 37 CFR 1.131 signed on behalf of the non-signing sole inventor by the assignee, was filed.

¹ Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

On November 12, 2008, a non-final Office action was mailed, stating, *inter alia*, that the declaration under 37 CFR 1.131 was improper.

In response, on March 12, 2009, the original petition paper was filed, accompanied by a one (1) month extension of time. Petitioners state that the declaration under 37 CFR 1.131 was sent to the non-signing inventor by email, but that no response was received.

On April 14, 2009, the petition was dismissed. The decision dismissing the petition set a two (2) month extendable period for reply. The decision further stated that a balance of \$270.00 towards the petition fee was due.

On July 16, 2009, the subject renewed petition was filed, accompanied by payment of a one (1) month extension of time as well as the \$270.00 balance due towards the petition fee.

PETITION UNDER 37 CFR 1.183

Petitioners state that subsequent to the filing of the original petition, the signature of the inventor on the declaration under 37 CFR 1.131 was obtained. A copy of the Declaration Under 37 CFR 1.131 bearing the signature of inventor Claire B. Bass is provided with the subject renewed petition.

As the inventor's signature has been provided, there is no need for further consideration of a petition to waive the rules to accept the declaration under 37 CFR 1.131 without the inventor's signature. Accordingly, the petition under 37 CFR 1.183 is **dismissed as moot.**

However, since petitioner received consideration on the merits in the original petition, which was dismissed on April 14, 2009, the petition fee is due. The fee has been received.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

The application was held abandoned for failure to timely respond to the decision on petition mailed on April 14, 2009, which set a two (2) month shortened period for reply.

On July 16, 2009, the subject renewed petition was filed, accompanied by a one (1) month extension of time. As the decision on April 14, 2009, permitted extensions of time under 37

CFR 1.136(a), the renewed petition is timely filed, and the holding of abandonment was premature.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is referred to Technology Center 1794 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.



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